

STATE OF WYOMING PERSONNEL RULES



January 28, 2015

Revised June 30, 2015

PERSONNEL RULES OF THE EXECUTIVE BRANCH OF WYOMING STATE GOVERNMENT

JANUARY 28, 2015

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For information concerning availability of the Personnel Rules in an alternative format, please contact the Department of Administration and Information, Human Resources Division, 2001 Capitol Avenue, Cheyenne, WY 82002-0060. Telephone: (307) 777-6713, FAX: (307) 777-6562, EMAIL: AI-HRD-AGYSVCS@WYO.GOV

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CHAPTER 1

GENERAL PROVISIONS

Section 1. **Authority.**

(a) These State of Wyoming Personnel rules are promulgated by the Human Resources Division, Department of Administration and Information, State of Wyoming, in accordance with W.S. 9-2-1002, 9-2-1019, 9-2-1022, and 16-3-101 through 16-3-115. They take precedence over all personnel rules issued by any Executive Branch State Agency.

(b) Throughout these rules, Human Resources Division shall mean the Department of Administration and Information Human Resources Division.

(c) Throughout these rules, Human Resources Administrator shall mean the Department of Administration and Information Human Resources Division Administrator.

Section 2. **Coverage.**

These rules apply to all positions and employees in the Executive Branch, with the exception of the University of Wyoming and the positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorneys and Executive Director of the Community College Commission which are exempt from these rules. The Governor is exempt from Chapter 2 in the recruitment and appointment of agency heads. The position of Adjutant General is exempt from the State Compensation Plan (W.S. 19-7-103 (b)(ix)).

Section 3. **Interpretation.**

(a) The Human Resources Administrator or designee is solely responsible for providing official interpretations of these rules in cases of apparent internal conflicts between rules, or when questions arise about their application to specific situations, procedures or policies.

(b) In all cases where approval from the Human Resources Division is required, it shall mean prior written approval.

Section 4. **Enforcement.**

(a) The Human Resources Administrator shall ensure that these rules are enforced and applied uniformly and fairly by all Executive Branch agencies.

(b) Agency Responsibility:

(i) Agency heads are responsible for complying with and applying these rules within their agency, and shall ensure that all employees comply with their provisions;

(ii) Agency heads are responsible for the action of agency management employees to whom they have delegated, in writing, authority to act in their behalf in any or all aspects of personnel administration;

(iii) Agency heads shall inform all employees of these rules;

(iv) Agency heads shall provide all employees with reasonable access to these rules.

(c) Employees are responsible for familiarizing themselves with these rules and are expected to contact their supervisor or agency human resources representative for explanation of any rule they do not understand.

Section 5. Personnel Policies.

The Human Resources Division may issue written policy statements concerning interpretation or application of these rules, procedures for carrying out personnel functions, and other matters necessary for proper personnel administration. Agency heads shall distribute and comply with these statements.

Section 6. Equal Employment Opportunity.

(a) Equal employment opportunity shall be provided to applicants and employees in the administration of all personnel practices such as recruitment, appointment, promotion, performance evaluation, discipline, retention, training and other benefits, terms and conditions of employment in a manner which does not discriminate on the basis of race, color, creed, religion, sex, national origin, age, political affiliation, disability (except where disability is a bona fide occupational disqualification).

(b) The Human Resources Division shall provide assistance to agency heads in the administration of equal employment opportunity policy.

(c) Agency heads shall act in accordance with equal employment opportunity policy and shall cooperate fully with the Human Resources Division Equal Employment Opportunity Coordinator, the State of Wyoming's representative, in investigating and resolving discrimination complaints.

(d) Agency heads or designees are responsible for distributing and discussing equal employment opportunity policy with agency management and employees to assure understanding and consistent application.

(e) Agency heads shall provide employees and applicants alleging discrimination accessibility to the agency's designated Equal Employment Opportunity Coordinator who can assist the individual in order to insure that their rights are not violated. The Human Resources Division Equal Employment Opportunity Coordinator shall be contacted by the agency when an employee or applicant complains of employment discrimination.

(f) An employee or applicant alleging employment discrimination should contact the Human Resources Division Equal Employment Opportunity Coordinator who shall attempt to resolve the complaint.

(i) If the complaint cannot be resolved, the Coordinator shall provide a full report to the Human Resources Administrator and shall advise the individual of any other procedures available for resolution of the complaint.

Section 7. Discrimination and Sexual Harassment.

(a) The State of Wyoming Anti-Discrimination Policy is set forth in Executive Order No. 2000-4.

(b) The Anti-Discrimination Policy prohibits any form of discrimination or harassment related to an individual's race, religion, color, sex, national origin, age or disability.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

(d) Any employee who believes he or she has been discriminated against or harassed in violation of the Anti-Discrimination Policy should submit a complaint following the procedures set forth in the Anti-Discrimination Policy.

(e) An employee may file a discrimination complaint with the Wyoming Department of Workforce Services, Division of Labor Standards, or the Federal Equal Employment Opportunity Commission.

Section 8. Substance Abuse.

(a) Policy. It is the policy of the State of Wyoming to maintain a workplace free of substance abuse as set forth by Executive Order 1990-2

(b) All employees shall be given a copy of the Executive Order 1990-2 Substance Abuse Policy.

(c) Employees shall be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

Section 9. Personnel Forms.

The Human Resources Division shall prescribe the forms and procedures for use by State agencies in matters of personnel administration.

Section 10. Employee Participation.

Employees or their recognized representatives may provide comments and suggestions to the Human Resources Division relating to personnel matters affecting their interests.

Section 11. Personnel Records.

(a) The Human Resources Division shall have access to all agency personnel records.

(b) Employees personnel records shall be maintained as determined by the Human Resources Division and in accordance with the State Personnel Records Policy.

(c) Employees shall have access to their personnel records upon providing proper identification. An employee's representative may be given access to an employee's personnel records upon providing a release signed by the employee.

(d) When an employee transfers from one agency to another agency within the Executive Branch of State Government, the employee's personnel file shall transfer to the new agency.

(i) The hiring agency shall submit a written request to the employee's former agency requesting the official transfer of the employee's personnel file after the employee has started with the new agency.

(ii) The former agency human resource office shall ensure the file is transferred to the hiring agency human resource office within ten (10) days of the hiring agency's written request either by hand delivery or certified, return receipt mail.

Section 12. Responsibility for Agency Functions.

(a) Agency heads shall ensure that the following functions are performed:

(i) Establishment and maintenance of internal personnel policies and procedures, which do not conflict with the State of Wyoming Personnel Rules and policies;

(ii) Establishment and maintenance of employee personnel records;

(A) Personnel records, including selection/interview records, shall be maintained as required by W.S. 16-4-203(b) (ii) and W.S. 16-4-203(d)(iii) the Executive Branch Records Retention Schedules;

(iii) Designation of a contact position for purposes of communicating with the Human Resources Division;

(iv) Preparation of reports and other information required by the Human Resources Division.

Section 13. **Management Rights.**

(a) To insure that the State can carry out its constitutional and statutory functions there are certain matters, which are solely functions of management, including:

- (i) The right to direct the work force;
- (ii) To select and determine the number and types of employees required;
- (iii) To determine the content of job classification;
- (iv) To hire, transfer, promote, demote, reappoint, suspend, discipline, and dismiss employees;
- (v) To evaluate work performance;
- (vi) To authorize leave;
- (vii) To assign work to employees as required by the State;
- (viii) To establish and change work schedules and assignments;
- (ix) To lay off employees for lack of work;
- (x) To furlough employees without pay for lack of work or funding;
- (xi) To expand or diminish services;
- (xii) To subcontract any work or operations;
- (xiii) To establish and change methods of operation;
- (xiv) To determine and change work locations and the processes and materials to be employed; and
- (xv) To take all necessary actions to perform its functions in emergencies.

(b) Management shall have the right to conduct inquiries into matters affecting management policies and practices.

(c) Management shall ensure these functions are carried out fairly, equitably and in the best interest of the State.

Section 14. Politics.

(a) Employees shall not use official authority or influence to interfere with or influence the result of an election or nomination for office.

(b) Employees shall not directly or indirectly coerce a State officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

(c) Employees shall not conduct any political activity on State time.

(d) Employees shall not be a candidate for partisan elective office if employed in a program covered by the Federal Hatch Act.

(e) Discrimination against any person in recruitment, examination, appointment, retention, discipline or any other aspect of personnel administration because of political opinion or affiliation is prohibited:

(i) No questions shall be asked on any application, examination, or interview, which would directly or indirectly require the disclosure of a person's political affiliation, preferences, or opinions.

(ii) Applicants and employees are prohibited from using political influence as an advantage in securing or making appointments or for other personal benefit for themselves or others in personnel matters.

Section 15. Conflicts of Interest.

(a) Employees shall not enter into any financial or other relationship with a State agency, private business, or other organization, which would constitute a conflict of interest with their State employment.

(b) Employees shall not permit themselves to be placed under any personal or other obligation, which could lead any person, group, or organization to expect official favors.

Section 16. Personal Conduct.

Employees shall be courteous, considerate, and impartial in dealing with and serving the public. Employees shall conduct themselves in a manner that will not bring discredit or embarrassment to the State.

Section 17. Dual Employment.

(a) There shall be no conflicting hours of work when a person is employed by two (2) or more State agencies or in two (2) or more positions in the same State agency:

(i) In the case of the former, both agency heads shall first agree to the terms of the dual employment;

(ii) Dual employment within State service shall have prior approval of the Human Resources Division.

(b) An agency head may allow an employee to work for another employer so long as the employee performs satisfactorily and there is no conflict of hours:

(i) No employee shall engage in outside employment or other activity which is not compatible with the efficient and proper performance of the duties of the State employment, or which tends to impair capacity to perform duties and responsibilities in an acceptable manner.

Section 18. Use of State Property.

No employee shall use or permit the use of State property for other than official activities. Employees shall protect and conserve State property, equipment, and supplies entrusted or issued to them.

Section 19. Savings Clause.

If any provision of these rules or its application to any person or circumstance is held invalid or in conflict with any other provision of these rules, the invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

Section 20. Work Schedules.

(a) All Executive Branch Agencies shall maintain traditional hours of work from 8:00 a.m. to 5:00 p.m., Monday through Friday and be staffed appropriately to insure service to the public and other agencies, unless otherwise approved in writing by the Human Resources Division.

(b) Employees shall maintain a set work schedule and conduct state business from their centralized organizational work place, their regular office or from an approved remote work site using an approved Telework Memorandum of Understanding.

(c) An employee may request an alternative or variable work schedule in contrast to the traditional hours of work:

(i) The use of an alternative or variable work schedule shall be requested in writing by the agency head to the Human Resource Division for approval prior to the schedule becoming effective;

(ii) Any change to the official workweek or alternative work schedule shall be in accordance with the overtime provisions of the Fair Labor Standards Act and policies and procedures established by the Human Resource Division.

CHAPTER 2

RECRUITMENT & APPOINTMENT

Section 1. **Recruitment.**

(a) The Human Resources Division shall establish and administer a centralized system of recruiting applicants based on competencies, relative ability, knowledge, experience, and skills to meet the human resource requirements of the State.

(b) To fill any vacant position, there shall be recruitment.

(c) All recruitment shall be determined by the Human Resources Division and in accordance with the State Recruitment Policy.

Section 2. **Applications.**

(a) Application for appointment shall be submitted in accordance with the State Recruitment Policy and received within the prescribed time limits for positions open for recruitment.

(b) A separate application shall be submitted for each position open for recruitment.

(c) Neither the issuance of recruitment nor an application form nor an invitation to apply shall be construed as incurring an obligation to accept or approve any application subsequently submitted.

(d) The Human Resources Division may stop or limit the acceptance of applications in any manner, which is useful and expedient for the recruitment involved.

Section 3. **Ineligibility of Applicants.**

(a) Applications may be rejected, and/or applicants refused further consideration, examination, or appointment for any of the following reasons:

(i) Failure of the application to show the applicant meets all minimum requirements established for the classification;

(ii) Failure of an applicant to submit requested application materials according to the established procedures and/or within the prescribed time period which are complete, legible, and comprehensible;

(iii) Making a false statement and/or otherwise practicing deception and/or fraud in connection with an application;

(iv) Cheating and/or otherwise attempting to secure an undue advantage on any examination and/or obtaining information regarding examinations to which the individual is not entitled;

(v) Failure to appear for a scheduled examination and/or interview;

(vi) Failure to pass any phase of the examination process;

(vii) Applicant is determined to be unable to effectively perform the essential functions of the job, with or without reasonable accommodation;

(viii) Applicant has been dismissed from State service;

- (ix) Applicant has been found to have a record of unsatisfactory work performance;
- (x) Applicant is currently abusing narcotics, intoxicating liquors, and/or other substances in a manner which would affect the ability to safely, dependably and/or effectively perform the duties of the job;
- (xi) Applicant has been convicted of a crime and/or has a record of convictions, the nature of which is reasonably related to the applicant's fitness for employment for the job;
- (xii) Applicant has used and/or attempted to use political and/or personal pressure and/or bribery to secure an advantage in obtaining employment;
- (xiii) Applicant supports and/or belongs to any organization, which advocates illegal overthrow of the government of the United State and/or of the State of Wyoming;
- (xiv) No person under sixteen (16) years of age shall be employed;
- (xv) No person between sixteen (16) and eighteen (18) years of age shall be employed in an occupation defined as hazardous by the United States Secretary of Labor pursuant to the "Federal Fair Labor Standards Act of 1938," as amended 29 U.S.C. 201 et. seq., also known as the Act;
- (xvi) Applicant has willfully violated any provisions of these rules; or
- (xvii) For any other job related reason which adversely affects the applicant's suitability for appointment.

Section 4. Candidate Group.

- (a) Unless otherwise specified by the Human Resources Division, the candidate group shall consist of all eligible applicants from a specific recruitment whom consideration for appointment may be given.
- (b) The Human Resources Division shall make available, upon request, to the hiring authority the names and applications of the candidate group.
- (c) A permanent employee, separated from service due to a reduction in force, shall automatically be in the candidate group for the classification held at the time of separation for a period of twenty-four (24) months:
 - (i) A permanent employee, separated from service due to a reduction in force, shall be a state employee for a period of twenty-four (24) months when applying for position vacancies limited to state employees.

Section 5. Examinations.

- (a) Definition of Examination: Any process, procedure, rating, interview, test, evaluation, or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.
- (b) Examinations shall be administered in accordance with the State Recruitment Policy.
- (c) Agency management shall inform the Human Resources Division of any examinations used during the recruitment process.

(d) The content and conduct of such examinations may be subject to the review and approval of the Human Resources Division:

(i) Agency management shall coordinate through the Human Resources Division in any examination development activities.

(e) Examinations conducted by agency management or hiring authorities for the purpose of employment decisions shall be job-related:

(i) Only applicants who have successfully applied for an active recruitment, meet the minimum requirements, and have otherwise been determined to be eligible for appointment shall be eligible for an examination.

(f) Hiring authorities shall consider an adequate number of the available candidates in order to provide for competitive selection:

(i) Hiring authorities shall keep records of candidates examined, including applications, dates, ratings, and other documentation of the results of final selection examinations for a time period specified in the State's Executive Branch Records Retention Schedules;

(ii) Hiring authorities shall be responsible for any adverse actions resulting from failure to consider any candidate, taking into account valid factors relevant to the needs of the vacant position.

(g) Hiring authorities shall make reasonable accommodations to assist applicants with disabilities in the examination process:

(i) It shall be the responsibility of the applicant to notify the hiring authority of any special needs.

Section 6. Veterans' Preference Points.

Veterans' Preference Points shall be in accordance with W.S. 19-14-102.

Section 7. Preconditions to Appointment.

(a) Except for appointments of agency heads by the Governor, emergency appointments, involuntary reappointments, and lateral reappointments within the same agency, all appointments shall be from among the candidate group from the specified recruitment for the specified classification.

(b) Minimum Requirements. Except for emergency appointments, no applicant shall be appointed until the following are met:

(i) Specified time periods as defined in the State Recruitment Policy have passed;

(ii) The processing of applications and the administration of examinations is complete;

(iii) It has been determined by the Human Resources Division that the applicant meets the minimum requirements of the classification and has passed any required evaluation;

(iv) It has been determined that the applicant is able to perform the essential functions of the job, with or without reasonable accommodation; and

(v) The applicant has an acceptable record of previous job performance;

(A) The performance and / or disciplinary file of current and former state employees shall be made available to the hiring agency upon notification to and written authorization from the Human Resources Division, of the current or former state employee's selection as the final candidate(s) for appointment.

(c) Applicants and individuals contracted to perform services for the State who have access to minors or to persons who are frail, elderly or suffering mental illness or developmental disabilities shall be required to submit to fingerprinting for the purpose of obtaining State or national criminal history record information before appointment or continued employment.

Section 8. Responsibilities of Hiring Authorities.

(a) Prior to making a commitment to hire, the hiring authority shall be responsible for determining that all of the following conditions are met:

(i) Prior to the hiring of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(ii) An individual recommended for probationary appointment, reinstatement appointment, promotional appointment, voluntary reassignment, temporary appointment, or intermittent appointment is in the candidate group;

(iii) The appointment of the individual would not conflict with the rule on employment of relatives, Section 10 of this chapter;

(iv) All legal requirements pertaining to the classification including licensing and/or certifications are met.

(b) The hiring authority shall notify all qualified candidates that applied for the specific recruitment regarding the final status of the recruitment.

Section 9. Types of Appointment.

(a) Probationary Appointment. The appointment of a candidate in a civil service position who shall serve a three hundred and sixty-five (365) day probationary period:

(i) An individual given a probationary appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period;

(ii) Time served as an intern, emergency employee, temporary employee, or intermittent employee shall not count towards the probationary period;

(iii) Leave without pay and/or time received from donated sick leave shall not count towards the probationary period.

(b) Permanent Appointment. The appointment of an individual who has completed the probationary period:

(i) Permanent appointment shall be effective on the next day following completion of the three hundred and sixty-five (365) day probationary period.

(c) Appointment by Reinstatement. A permanent employee, separated from service due to a reduction in force, shall have reinstatement rights for a period of twenty-four (24) months to include employment status, leave accrual rates, longevity benefits and continuous service credits held at the time of separation:

(i) A permanent employee who separated from service due to a reduction in force shall have a right to decline offers of appointment without forfeiture of reinstatement rights when:

(A) The geographical area of the position vacancy is different from that at the time of separation;

(B) The position funding is temporary or time-limited;

(C) The classification is different from that at the time of separation; or

(D) The division is different from that at the time of the separation.

(d) At-Will Appointment. The appointment of a candidate to a position in a non-civil service position:

(i) An individual given at-will appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

(e) At-Will Contract Appointment:

(i) At-will contract appointment shall require a signed written contract agreement and shall be in accordance with W.S. 9-2-1022(a)(xi)(F);

(ii) An individual appointed as an at-will contract employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason;

(iii) No work shall be performed by an individual until the contract has been approved in writing and signatures obtained by all parties to the contract including the Human Resources Division and the Attorney General;

(A) Salary and/or rates of pay shall be comparable to similar jobs in state government and shall not include adjustments for any type of benefit including leave, insurance premium, or retirement contribution;

(iv) Appointment as an at-will contract employee shall not count towards continuous state service for purposes of longevity payments;

(v) No at-will contract employee shall be eligible for or accrue any type of leave.

(f) Temporary Appointment. Temporary appointment shall not continue for more than nine (9) months without prior written approval of the Human Resources Division:

(i) Temporary appointment may be made to a position:

(A) Held by another employee who is on educational leave or other extended leave;

(B) Which is seasonal and or time-limited for a period of less than nine (9) months;

(ii) No individual shall receive successive temporary appointment into the same classification within an agency during any twelve (12) month period;

(iii) An individual given temporary appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

(g) Intermittent Appointment. The employment of a candidate to perform work in a classification for varying time intervals, which shall not exceed nine (9) months full-time equivalent service:

(i) An individual given intermittent appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

(h) Emergency Appointment. When an emergency threatening public health, safety or welfare exists requiring the immediate employment of additional workers, emergency appointment may be utilized with prior verbal approval of the Human Resources Division, except for emergencies occurring at night, or on weekends or holidays, in which case such emergency appointment shall be reported to the Human Resources Division on the following work day:

(i) Emergency appointment shall not exceed thirty (30) days;

(ii) Persons given emergency appointment shall submit application forms to the Human Resources Division as soon as practical;

(iii) An individual given emergency appointment is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

(i) Appointment of Interns:

(i) All interns shall require justification and prior written approval of the Human Resources Division Administrator or designee;

(ii) An agency may offer an internship as on-the-job training for a limited period of time provided the following:

(A) The internship, even though it includes actual operation of the agency, is similar to training which would be given in an educational environment;

(B) The internship is for the benefit of the intern;

(C) The intern shall not displace regular employees, but works under close supervision of existing staff;

(D) The agency that provides the training receives no immediate advantage from the activities; and on occasion the operations may be impeded; and

(E) The intern is not necessarily entitled to a job at the conclusion of the internship unless they are in the candidate group of an active recruitment.

- (j) Volunteer:
 - (i) All volunteer opportunities shall require justification and prior written approval of the Human Resources Division Administrator or designee;
 - (ii) Volunteers shall not displace regular employees;
 - (iii) State employees shall not volunteer additional time to do work.
- (k) Promotional Appointment. The appointment of an employee to a different position in a different classification having a higher grade than the employee's current classification.
- (l) Reassignment:
 - (i) Voluntary Reassignment. The reassignment of an employee seeking appointment to a position in a different classification having the same or lower grade than the employee's current classification;
 - (A) Voluntary Reassignments shall be from among applicants in the candidate group;
 - (ii) Involuntary Reassignment;
 - (A) An agency head shall consult with the Attorney General's Office and the Human Resources Division prior to involuntarily reassigning a permanent or probationary employee to a different position in a different classification having the same or lower grade than the employee's current classification because of a reduction in force, unsatisfactory work performance or other demonstrated reason affecting the accomplishment of program goals;
 - (B) Prior to a reduction in force, involuntary reassignment may be between agencies if both agency heads agree;
 - (C) Involuntary reassignments shall require the employee meets the minimum requirements for the new classification;
 - (D) Involuntary reassignments of an employee may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;
 - (iii) Lateral Reassignment. The reassignment of an employee to a vacant position within the same classification as the employee's current position;
 - (A) A lateral reassignment of an employee to a vacant position within the same agency may have the requirement to conduct an active recruitment waived with prior written approval of the Human Resources Division;
 - (iv) Interim Assignment. The reassignment of an employee on an interim basis to a different position in a higher grade than the employee's current position;
 - (A) An agency head shall provide written notification to the Human Resources Division prior to providing an interim assignment to an existing agency employee;
 - (B) Interim assignment shall not exceed twelve (12) months;

(C) The same position shall not be filled by successive interim assignments by the same individual without the prior written approval of the Human Resources Administrator.

Section 10. Employment of Relatives.

(a) Agency heads may approve hiring a person who is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, or sibling-in-law of any current employee in that agency.

(b) **Employee Marriage.** If two present employees of the same agency marry each other, they both may continue employment in that agency with the approval of the agency head and prior written notification to the Human Resources Administrator.

(c) An agency head shall ensure employees related to each other do not directly supervise a relative.

Section 11. Appointment of Non-U.S. Citizens.

(a) All employees, citizens and non-citizens, hired after November 6, 1986, and working in the United States shall complete Form I-9, Employment Eligibility Verification to document they are authorized to work in the United States:

(i) Each agency shall verify and maintain I-9 documentation according to the U.S. Citizenship and Immigration Services.

(b) Agencies shall only employ persons authorized to work in the United States.

(c) When an employee's work authorization expires, the agency shall verify the employee's employment eligibility:

(i) The employee shall present a document that shows either an extension of the employee's initial employment authorization or new work authorization;

(ii) If the employee cannot provide proof of current work authorization, the agency shall not continue to employ that individual.

(d) No agency shall be a sponsor or petitioner on behalf of any Non-U.S. Citizen without the express written consent of the Governor.

(e) No agency may contract with or permit a third party (e.g., a law firm) to petition any federal agency to change a Non-U.S. Citizen's immigration status without prior consultation with the Attorney General's Office, notification to the Human Resources Division and the written approval of the Governor.

CHAPTER 3
POSITION CONTROL

Section 1. Position Status.

(a) The status of each position shall be designated based on authorized funding, as one of the following types:

- (i) full-time;
- (ii) part-time;
- (iii) time-limited; or
- (iv) time-share.

(b) The status of position shall not have any effect on the employment status of an individual occupying the position.

Section 2. Job Content Questionnaires.

(a) Job Content Questionnaires. Job content questionnaires shall be prepared for each position. The original job content questionnaire shall be kept on file in the Human Resources Division; and a copy shall be retained by the agency.

(b) New Job Content Questionnaires. A new job content questionnaire shall be prepared and submitted when there are substantial and permanent changes in tasks performed by the incumbent, or when required by the Human Resources Division.

(c) Preparation of Job Content Questionnaires. Job content questionnaires shall be prepared as required by the Human Resources Division. The job content questionnaire shall be completed jointly by the employee and the employee's supervisor to accurately describe the duties and responsibilities assigned by the supervisor to the position. The content contained in the job content questionnaire is the responsibility of and determined by the supervisor.

(d) Falsification of Job Content Questionnaires. Position incumbents, supervisor(s), agency heads, and other employees shall be truthful and accurate in completing job content questionnaires and in providing other information relating to positions. Falsification of information on job content questionnaires shall be grounds for disciplinary action up to and including dismissal.

Section 3. Task Assignments.

(a) Agency heads, management, and supervisors have the authority and responsibility to assign tasks as necessary to accomplish the program goals of the agency. Class specifications do not prohibit the assignment of tasks not specifically listed.

(i) To the extent possible, assignments of tasks from one position to another or of new tasks shall be assigned to existing positions of similar content to eliminate or reduce the possibility of positions being reclassified to a higher grade than funding is authorized.

Section 4. Position Vacancies.

(a) **Positions Occupied by Employees on Leave.** A position occupied by an employee on educational leave, leave without pay, or other authorized leave shall only be filled by temporary appointments or interim assignments.

(b) **Vacancies Resulting from Position Reclassification.** If an occupied position is reclassified, and the incumbent does not meet the minimum requirements for the new classification, the employee shall not remain in the position for more than thirty (30) days after receipt of written notice from the Human Resources Division of its determination that the employee does not meet the minimum requirements for the new classification.

(c) **Positions vacated due to a reduction in force** shall be removed from the Agency's authorized position allocation.

Section 5. Position Appointments.

(a) **Preconditions to Appointments.** No appointment shall be made to any position unless the position has been assigned a position number and has been allocated to a classification by the Human Resources Division.

(b) **Authorization and Funding.** Before filling a vacancy, the agency head shall ensure that the position has been authorized by the Governor and/or Legislature and that sufficient funds exist for the position.

(c) **Multiple Occupancy of Position.** No more than one (1) employee shall occupy a position at the same time except under the following conditions:

(i) Appointments or interim assignments, which are made within a reasonable period prior to or following the scheduled separation of an employee;

(ii) Temporary appointments and interim assignments made to positions occupied by employees on authorized leave;

(iii) Temporary appointments to time-limited positions;

(iv) **Time shared positions.** Two (2) employee may voluntarily occupy one (1) position or three (3) employees may voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022(a)(xii)) and (W.S. 9-2-1022(f)); or

(v) Other multiple occupancies specifically approved by the Human Resources Division.

Section 6. Establishment of New Positions.

(a) When requesting gubernatorial or legislative authorization for a new position, the agency head shall provide a written request to the Human Resources Division and Department of Administration and Information Budget Division. The agency head shall provide a job content questionnaire with the written request and indicate how the new position would affect other authorized positions:

(i) A tentative classification of the proposed position shall be determined by the Human Resource Division and provide notification to the Administration and Information Budget Division.

(b) Positions Established. A new position shall officially be established when necessary funding is authorized by the Governor and/or Legislature, a position number has been assigned by the Human Resource Division and the position is officially classified by the Human Resources Division.

CHAPTER 4

POSITION CLASSIFICATION

Section 1. **Position Classification Plan.**

The Human Resources Division maintains the position classification plan. The plan shall cover all positions in the Executive Branch of State Government, except for the elected positions of Governor, Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, District Attorney, and positions within the University of Wyoming.

Section 2. **Class Specifications.**

(a) A class specification is a summary of the most important features of a class, including the duties and responsibilities, skill, effort and working conditions of the work performed. The task content of a class specification is not intended to be all inclusive, restrictive, or precisely descriptive of the duties and responsibilities of any particular position within the class.

(b) Preparation. The Human Resources Division shall prepare a class specification for each class established in the plan.

(c) Class Titles:

(i) The Human Resources Division shall designate an official title for each class in the plan. Only the Human Resources Division shall have authority to alter official class titles;

(ii) Official class titles shall be used in all personnel, payroll and budget correspondence, forms, reports, records and other documents involving personnel administration.

(d) Minimum Requirements. Class specifications shall include minimum requirements including the possession of licenses, certificates, training, experience, knowledge, skills, and abilities to perform the essential functions of the job; and other requirements, which are necessary preconditions to appointment to positions in the class.

(e) Related Tasks. Class specifications shall contain the statement "The listed duties are illustrative only and are not intended to describe every function which may be performed in the job class". Employees may be required to perform incidental tasks, which are not among the usual duties of positions in the class.

(f) Distribution and Inspection. Class specifications shall be posted on the Human Resources Division website.

Section 3. **Position Information.**

(a) Data Collection. The Human Resources Division has the responsibility and authority to obtain information necessary for use in position classification. The Human Resources Division shall use such methods as it determines to be appropriate. Collection of information may include the study of relationships with other positions, tasks performed in other positions, organizational structures, program goals, and other related factors.

(b) Management and Employee Responsibility. Agency management and employees shall cooperate with the Human Resources Division by providing access to work areas, making employees available, and by responding to requests for information.

Section 4. Position Classification.

(a) Classification Authority. The Human Resources Division has sole authority to classify and reclassify positions.

(b) Classification Factors:

(i) In classifying a position, the Human Resources Division shall consider factors such as formal training, experience, management control, supervisory skills, human relations skills, responsibility, accountability, problem solving, complexity, working conditions, and mental/visual demand.

(c) Unrelated factors. Classification shall not be based upon the individual characteristics and performance level of the employee occupying the position; or upon other information not pertinent to the position or classification.

Section 5. Classification System Maintenance.

(a) Audits and Studies. The Human Resources Division shall regularly conduct job audits and occupational studies for maintaining the integrity of the classification system.

(b) Classification Reviews:

(i) Basis for Review. The Human Resources Division shall review only the placement of a position within a specific class. Components of the classification plan cannot be reviewed. These include evaluation factors, grade assignment, and pay tables;

(ii) Agency Requirements. The agency shall submit a position for review when the core functions of the job have permanently changed. The agency shall submit the appropriate documentation as required by the Human Resources Division. The Human Resources Division shall review the request and notify the agency of its determination;

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resources Division;

(iii) Employee Requests. Employees who believe that their positions have not been placed in the proper class may submit to their agency head a new job content questionnaire and a request for review. The request shall include the reasons why the re-evaluation is being requested. The agency head shall review the request and shall submit the appropriate documentation as required by the Human Resources Division for review to the Human Resources Division within ten (10) days of receipt. The Human Resources Division will review the request and notify the agency and employee of its determination;

(A) The agency shall notify the employee of the classification determination within ten (10) days of receiving the determination from the Human Resources Division;

(B) Classification Review Panel;

(I) If the employee does not agree with the initial determination by the Human Resources Division, the employee may submit a written request for reconsideration by the Classification Review Panel within thirty (30) days of the employee's notification. This panel comprised of the Director of the Department of Administration and Information, the Human Resources Administrator, the head of the Agency Services Unit, and the agency director or designee shall review the evaluation of the original request and any additional information provided by the employee and/or their

representative. The panel shall provide written notice of its final decision within sixty (60) days of receipt.

(c) **Reclassification:**

(i) If the Human Resources Division or the Classification Review Panel determines that a position is improperly classified, it shall be reclassified in accordance with the provisions of Section 4 of this chapter;

(ii) An employee occupying a reclassified position shall, when requested, submit to the Human Resources Division such information as necessary for evaluation of the employee's qualifications for the new classification. The Human Resources Division shall evaluate the employee's qualifications and provide written notification to the agency head or agency human resource office and the employee;

(iii) If an employee vacates a position because of inability to meet established minimum requirements for the new class, the following shall apply;

(A) If the employee is appointed to a different position in the previous class, it will be treated as a same grade reappointment;

(B) If the employee is reappointed to a position in a different class having the same or lower grade, it will be treated as an involuntary reappointment;

(C) If the employee is appointed to a position in a class having a higher grade, it will be treated as a promotion; or

(D) If the employee is separated from state service, it will be treated as a reduction in force.

Section 6. Effective Dates of Classification and Reclassification.

(a) **Unoccupied Position.** The classification of a new position or reclassification of a vacant position shall be effective on the date that written notification of the classification determination is provided to the agency head or agency human resource office.

(b) **Occupied Position.** If the incumbent employee meets the minimum requirements for the new class, the effective date of the reclassification shall be the first of the month following the date upon which the Human Resources Division has determined that the employee is qualified to remain in the position. If the incumbent does not meet minimum requirement for the new class, the effective date shall be the date that the employee vacates the position.

CHAPTER 5
COMPENSATION

Section 1. Compensation Plan.

(a) The Human Resources Division shall establish and administer a consistent, equitable, and flexible Compensation Plan covering all state executive branch employees.

(b) All employees shall be paid within the pay rates established by and in accordance with the Compensation Plan and the State of Wyoming Compensation Policy.

(c) All agencies shall comply with the State of Wyoming Compensation Policy established by the Human Resources Division:

(i) All agency pay actions shall be subject to audit by the Human Resources Division.

Section 2. Salary Surveys.

(a) Data on the defined and relevant labor market that is representative of public and private sector employees shall be gathered regularly by the Human Resources Division.

Section 3. Pay Rates.

(a) The following information shall be established and set forth in the State of Wyoming Compensation Policy:

- (i) Hiring rates;
- (ii) Re-employment rates;
- (iii) Return from leave without pay rates; and
- (iv) Reinstatement rates.

Section 4. Compensation Adjustments.

(a) The following criteria apply to all pay adjustments unless otherwise specified:

(i) All pay adjustments shall have written justification and be submitted to the Human Resources Division;

(ii) Sequences affecting base pay adjustments will be established and set forth in the State of Wyoming Compensation Policy.

(b) Pay adjustments. An employee's pay may be adjusted in accordance with the State of Wyoming Compensation Policy.

(c) Other types of compensation adjustments may be implemented by the Human Resources Division based upon identified needs.

Section 5. Overtime.

(a) The overtime policy of the State of Wyoming shall be in accordance with and no more stringent than the provisions of the “Federal Fair Labor Standards Act of 1938”, as amended 29 U.S.C. 201 et seq., also known as the Act, as set forth in the State of Wyoming Compensation Policy.

(b) The Human Resources Division shall provide assistance to agencies regarding overtime policy interpretations.

(c) Agency heads shall be responsible for administering the overtime policy in accordance with the Act, these rules and the State of Wyoming Compensation Policy. These responsibilities include, but are not limited to:

(i) Coordinating with the Human Resources Division to periodically review and determine overtime compensation exemptions as authorized by the Act:

(A) In cases where the agency and the Human Resources Division disagree, the Human Resources Division shall make the final determination (W.S. 27-5-101(c)(i));

(ii) Enforcement of overtime rules to insure that overtime work is not performed if such work has not been officially authorized. The mere promulgation of a rule against unauthorized overtime work is insufficient enforcement.

(d) The following areas will be established and set forth in accordance with the State of Wyoming Compensation Policy:

- (i) Official State Workweek;
- (ii) Workweek Standard; and
- (iii) Exception to the Workweek Standard.

(e) Non-exempt employees.

(i) The following areas will be established and set forth in accordance with the State of Wyoming Compensation Policy:

- (A) Hours of Work Defined;
- (B) Meal Periods;
- (C) Rest Periods;
- (D) Sleeping Time;
- (E) Special Activities; and
- (F) Travel Time.

Section 6. Compensation upon Separation.

(a) The following areas will be established and set forth in accordance with the State of Wyoming Compensation Policy:

- (i) Vacation Leave;

- (ii) Sick Leave;
- (iii) Longevity; and
- (iv) Compensatory Time.

Section 7. **Executive Compensation.**

- (a) Compensation for at-will directors, deputies, and division administrators will be covered under the State of Wyoming Compensation Policy.

CHAPTER 6

LEAVE

Section 1. **Vacation Leave.**

(a) **Accrual Base Rates.** Vacation leave accrual base rates shall be determined by the amount of completed continuous service as follows:

0	through 48 months	-	8 hours per month
49	through 108 months	-	10 hours per month
109	through 168 months	-	12 hours per month
169	through 228 months	-	14 hours per month
229	or more months	-	16 hours per month

(b) **Service Credits to Rehired Employees.** Service Credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment:

(i) Prior service shall be on record with the Wyoming Retirement System or shall be otherwise verified through the Human Resource Division by the employee, agency or branch;

(ii) Service credits shall be given for any calendar month during which work was actually performed;

(iii) Reinstatement of service credits shall be limited to a one-time occurrence. Employees who leave state service after receiving reinstatement of service credit shall forfeit all prior service if subsequently rehired.

(c) **Monthly Accrual Rates.**

(i) Permanent employees, probationary employees, and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue vacation leave according to the number of hours worked in the month;

(ii) Temporary employees shall accrue vacation leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue vacation leave;

(v) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by the employee's accrual base rate, this total is divided by 160;

(vi) The following rates shall be used:

160 or more hours	-	100% of base rate
40 through 159 hours	-	Prorated according to formula

39 or less hours - 0% of base rate

(A) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

(vii) Accrued vacation leave is not available for use until the following month after the accrual period. Vacation leave is accrued only after the employee works the required time during the month.

(d) Authorized Use. Agency management shall consider the needs of the employee and the staffing requirements of the agency in approving vacation leave:

(i) Vacation leave shall not be authorized for periods of incarceration;

(ii) An agency head may authorize an employee terminating for any reason other than disciplinary reasons to use accrued unused vacation leave beyond the employee's actual last day of work or service to the state in lieu of receiving payment for the unused balance.

(e) Interagency Appointments. An employee who is appointed to a position in a different agency shall not lose any unused vacation leave as a result of the interagency transfer, promotion, or reappointment.

(f) Interbranch Appointments. An employee appointed without a separation from the State Judicial, or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused vacation leave. The employee shall accrue vacation leave according to established Executive Branch rates for completed continuous service which shall include continuous service credited while employed by the other branch:

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued vacation leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of vacation leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued vacation leave for Executive branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(g) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued vacation leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

(h) Maximum Accrual. On December 31 of each year, accrued unused vacation leave in excess of the carry-over maximum shall be reduced to this maximum and the employee shall forfeit the right to use this excess leave. The carry-over maximum, which depends upon completed State service, is determined as follows:

<u>Completed State Service</u>		<u>Carry-Over Maximum</u>
0 through 108 months	-	240 hours (30 days)
109 through 168 months	-	288 hours (36 days)
169 through 228 months	-	336 hours (42 days)
229 or more months	-	384 hours (48 days)

Section 2. **Sick Leave.**

(a) Monthly Accrual Rates:

(i) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue sick leave according to the number of hours worked in the month;

(ii) Temporary employees shall accrue sick leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue sick leave;

(v) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160;

(vi) The following rates shall be used:

160 or more hours	-	8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	no accrual

(vii) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

(viii) Accrued sick leave is not available for use until the following month after the accrual period. Sick leave is accrued only after the employee works the required time during the month.

(b) **Authorized Use.** Accrued sick leave may be used during scheduled work hours when an employee is incapacitated by sickness or injury; for pregnancy, childbirth, or related medical conditions; for medical, dental or optical examinations or treatment; for death or illness of a member of the employee's or the employee's spouse's immediate family and such other persons as approved by the agency head; or when an employee has been exposed to a contagious disease such that attendance at work could jeopardize the health of others:

(i) Persons affected by pregnancy, childbirth and related medical conditions shall be treated the same as persons affected by other medical conditions;

(ii) The agency shall deduct from an employee's compensatory time, if available, otherwise from their vacation leave balance for any of the reasons listed in 2(b) above when the employee's sick leave balance is insufficient to cover the authorized absence from work.

(c) **Notification.** Employees who are unable to work for any of the reasons stated in Section 2 (b) of this chapter shall notify their immediate supervisor as soon as possible of their absence or anticipated absence. If such notification is not given, the agency head shall charge the absence to vacation leave or leave without pay, and may consider appropriate disciplinary action.

(d) Approval. The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason listed in 2(b) above. An employee may be required to submit substantiating evidence including, but not limited to, a health care provider's certificate. Abuse of sick leave is cause for disciplinary action:

(i) An agency head shall not approve the use of sick leave for end of service leave.

(e) Donation. An agency head or designee, after determining that the employee has a legitimate reason to be absent and the employee does not have a documented history of abusing leave, may request donated sick leave from the agency and may request donated sick leave from other state employees for an employee who has exhausted all of their accrued sick leave, compensatory time vacation leave and all other available leave:

(i) An employee who has accrued a minimum of eighty (80) hours of sick leave may donate a minimum of four (4) hours up to the maximum of sixteen (16) hours of sick leave per calendar year to the same recipient who has an immediate and reasonable need for such assistance provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave;

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave;

(iii) Donors shall give their agency head, who shall approve or disapprove the donation, a written statement specifying the number of hours donated and the name and agency of the employee to whom the donation is being made;

(A) Donations to employees in agencies other than the donor's agency shall be approved by the donee's agency head or designee;

(iv) Employees shall have depleted all of their sick, vacation, or other available leave prior to use of donated sick leave;

(v) Agency heads shall ensure that all donated but unused sick leave shall be credited back to the original donor(s) when the recipient returns to work and/or no longer has an immediate and reasonable need for the leave; or when the recipient dies.

(f) Interagency Appointments. An employee appointed to a position in a different agency shall not lose any accrued sick leave as a result of the interagency transfer, promotion or reappointment.

(g) Interbranch Appointments. An employee appointed without a separation from State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules:

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued sick leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of sick leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued sick leave for Executive Branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(h) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued sick leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

Section 3. **Bereavement Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for six (6) continuous months of employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of bereavement leave upon the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose:

(i) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(ii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted bereavement leave.

Section 4. **Holiday Leave.**

(a) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall receive holiday leave, according to the number of regularly scheduled work hours in the month:

(i) Temporary employees shall receive holiday leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(ii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not receive holiday leave;

(iv) The formula for determining the holiday leave for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160;

(v) The following rates shall be used:

160 or more hours	-	full 8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	none

(b) Employees eligible to receive holiday leave and who are not required to work shall be granted paid leave not to exceed eight (8) hours per holiday from regularly scheduled work hours occurring on the following days:

(i) New Year's Day (January 1);

(ii) Martin Luther King, Jr. / Wyoming Equality Day (Third Monday in January);

- (iii) President's Day (third Monday in February);
- (iv) Memorial Day (Last Monday in May);
- (v) Independence Day (July 4);
- (vi) Labor Day (first Monday in September);
- (vii) Veteran's Day (November 11);
- (viii) Thanksgiving Day (fourth Thursday in November);
- (ix) Christmas Day (December 25); and

(x) Upon declaration by the Governor, any date declared by the President of the United States as an occasion of national mourning, rejoicing, or observance of national emergency.

(c) Holidays that fall on employee's regularly scheduled day off:

(i) If a holiday falls on the first day of an employee's regularly scheduled time off period, the day before shall be granted paid leave from regularly scheduled work hours for that employee;

(ii) If a holiday falls on a subsequent day off, the day after shall be granted paid leave from regularly scheduled work hours for that employee;

(iii) If an employee is unable to take paid leave as indicated above in (i) or (ii) due to staff shortage and or scheduling conflicts, the employee may elect to receive the amount of time authorized in the form of pay to be paid at the employees regular rate of pay.

(d) Employees on educational leave or leave without pay the day before or the day after a holiday shall not be entitled to paid leave.

(e) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section.

Section 5. Exempt Paid Time Off.

(a) Employees exempt from overtime, who are required to work on a holiday listed in Section 4(b), shall be granted paid time off at the rate of one and one-half (1½) hours off for each hour worked. Employees shall use any accumulated paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year, all unused paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

Section 6. Parental Leave.

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, may with Agency head approval take accrued sick leave, compensatory time, vacation leave, or leave without pay beyond the time allowed under Family Medical Leave Act (FMLA) for purposes associated with the birth or adoption of a child.

Section 7. Voting Leave.

(a) Employees shall, at the time specified by their supervisor, be allowed one (1) hour of leave with pay for the purposes of voting in an official public election:

(i) This section shall not apply to an employee who has three (3) or more consecutive non-working hours during the time the polls are open. (Reference W.S. 22-2-111).

Section 8. Court Leave.

(a) Permanent employees, probationary employees, temporary employees who have been employed for (6) months of continuous employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for their regularly scheduled work days(s) for the performance of such obligation:

(i) The employee shall be required to provide written documentation of such obligation which shall be retained in the employee's personnel file.

(b) Executive and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(c) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

Section 9. Legislative Leave.

(a) An employee elected to serve as a member of the State Legislature shall be required to take leave without pay for the performance of all legislative duties.

Section 10. Educational Leave.

(a) An agency head may, with notification to the Human Resources Division, grant educational leave to an employee for up to twenty-four (24) months to allow the employee to acquire job-related training or education. In notifying the Human Resources Division, the agency head shall provide a written description of the training or education which the employee intends to pursue and an explanation of how such training or education would benefit the State.

(b) The agency and employee shall enter into a contract outlining the provisions of the educational leave.

(c) Probationary employees, intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

Section 11. Administrative Leave.

(a) An agency head may grant an employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings:

(i) For other requested purposes, administrative leave request must be reviewed and evaluated for approval by the Governor or his designee.

(b) Upon declaration, the Governor may close state offices for the traditional observance of local celebrations, inclement weather conditions, or for other reasons or purposes that are deemed necessary:

(i) Employees required to work during the traditional observance of local celebrations shall be given compensatory time on an hour for hour basis;

(ii) Intermittent employees, emergency employees, interns, temporary employees who have been employed with the state less than six (6) months, and at-will contract employees are not eligible for these types of paid leave;

(iii) Upon a weather or other closure declared by either the Governor's Office or any agency head, an employee shall not be charged for time off from their regular schedule for the period of the closure unless the employee had been previously authorized any type of leave and is on leave at the time of the closure;

(A) Employee unable to report to work due to a weather-related road closure when state offices remain in operation are required to use available vacation or compensatory time to cover the absence.

(c) An agency head or designee is responsible for tracking the usage of these types of administrative leave hours in the state payroll system and are accountable for their appropriateness.

Section 12. Personal Leave.

(a) An agency head may grant an employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year in recognition of or for participating in the following activities:

(i) Employee recognition programs;

(ii) Participating in department wellness initiatives;

(iii) Merit incentive programs that have been submitted to and received prior written approval from A&I HRD;

(iv) Team based recognition – project completion that have been submitted to and received prior written approval from A&I HRD;

(v) To volunteer at a pre-approved non-profit community service organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(A) Employee must provide written verification from the organization that the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and that the employee volunteers their own time for that organization in order to receive personal leave;

(B) Volunteer activities must not promote religion or attempt to influence legislation, governmental policy or elections to public office;

(vi) Family departing or returning from active duty military service: and

(vii) To attend military funerals.

(b) Prohibited Activities. Personal leave may not be granted for:

(i) Birthdays;

(ii) Early release for holidays; and

(iii) Undocumented performance.

(c) Agencies authorizing leave for (a)(i) through (iv) above shall submit written plans to the Human Resources Administrator for review and approval prior to the implementation.

(d) An agency head or designee is responsible for tracking the usage of these hours and are accountable for their appropriateness.

(e) The granting of personal leave is at the discretion of the agency head or their designee. It is neither an employee right nor an employee benefit.

(f) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

Section 13. Military Leave.

(a) Military leave shall be granted in accordance with W.S. 19-11-108 (a-e).

Section 14. Leave Without Pay.

(a) Leave without pay may be granted at the discretion of the agency head in accordance with the following:

(i) An employee injured on the job and receiving Worker's Compensation benefits shall, upon request, be entitled to leave without pay in connection with the injury;

(ii) An employee on military leave described above in Section 13(a) shall, upon request, be entitled to leave without pay in accordance with W.S. 19-11-108 (a-e);

(iii) Except for the reasons indicated in (i) and (ii) above, leave without pay for medical reasons or any other reason where sick leave use is authorized, an employee shall use all accrued sick leave, compensatory time, vacation leave, or any other available leave before leave without pay will be authorized;

(iv) For all other types of leave without pay except legislative leave, an employee shall use all accrued compensatory time, vacation or other available leave before leave without pay will be authorized; and

(v) Leave without pay of more than fifteen (15) consecutive working days shall be reported in writing to the Human Resources Division. A leave without pay shall not continue for more than six (6) months without the approval of the Human Resources Division.

(b) The Governor may furlough employees due to lack of work or funding. An employee furloughed for lack of funding shall be on leave without pay and shall not use paid leave during the furlough period.

Section 15. Administrative Review Leave.

(a) An agency head may place an employee on administrative review leave with pay for a maximum of thirty (30) days when:

(i) The employee has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or

(ii) Allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency; or

(iii) Incapacity based on fitness for duty evaluation; or

(iv) When a formal workplace investigation has commenced and removing a witness or complaining party from the workplace is prudent to conducting the investigation.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the administrative review leave and the effective date:

(i) A copy of the written notice shall be provided to the Human Resources Division Administrator;

(ii) An administrative review leave, with or without pay, may be extended beyond the thirty (30) day period with prior written approval of the Human Resources Administrator; and

(iii) If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.

Section 16. Family and Medical Leave Act (FMLA).

(a) The Family and Medical Leave policy of the State of Wyoming shall be in accordance with and except as specified no more stringent than the provisions of Family and Medical Leave Act of 1993, Public Law 103-3 (Feb 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

(b) State Agencies are covered employers without regard to the number of employees employed.

(c) In all instances, the twelve (12) month period shall begin when leave is first used.

(d) Paid Leave. The FMLA leave period shall include the employee's accrued sick leave, vacation leave, accrued compensatory time leave, other available leave, and any donated sick leave allowed.

(e) Where two spouses are employed by the State of Wyoming their aggregate leave will be limited to the amount allowed by law.

(f) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 6, Section 14, Leave without Pay:

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement and shall not be allowed to use paid leave;

(ii) An employee on unpaid FMLA leave during a holiday shall not receive paid holiday leave.

(g) Certification. An agency shall require a medical certification from a health care provider for an employee's serious health condition or the employee's covered family member with a serious

health condition, or to care for a covered service member with a serious injury or illness or the appropriate certification for leave taken because of a qualifying exigency

(h) Agency requirements:

(i) Agencies shall comply with all requirements of the law and these rules and shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a failure to meet the obligations;

(ii) In all circumstances, the agency head or human resource office shall be responsible in designating leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed.

(i) Notice of leave:

(i) An employee shall give thirty (30) days' notice to the agency prior to the date the leave is to begin;

(ii) The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown;

(iii) The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences;

(A) An employee shall provide sufficient information for the Agency to reasonably determine whether the FMLA may apply to the leave request.

(j) Denial of FMLA leave. Prior to denial of FMLA leave, the agency shall submit to the Human Resources Division a written request for approval of such denial.

(k) Time elapsed while an employee is on paid FMLA shall be considered hours worked.

(l) Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service and shall not be considered time worked for purposes of accrual of any leave or other benefits.

(m) Does Not Return to Work. If an employee does not return to work following unpaid FMLA leave for a reason other than:

(i) The continuation, recurrence, or onset of a serious health condition which would entitle them to FMLA leave; or

(ii) Other circumstances beyond their control, the employee shall be required to reimburse the State for any portion of health insurance premiums paid on behalf of the employee during unpaid FMLA leave;

(iii) An employee who returns to work for a period of at least five (5) days is viewed as meeting the return to work requirement.

CHAPTER 7

DISCIPLINE FOR PERMANENT EMPLOYEES

Section 1. **Reasons for Discipline.**

- (a) As used in this chapter, the word employee shall refer to permanent employees only.
- (b) Agency management may discipline a permanent employee for cause including, but not limited to, the following reasons:
 - (i) Absenteeism;
 - (ii) Incapacity to perform assigned duties;
 - (iii) Assault;
 - (iv) Carelessness;
 - (v) Damaging State property;
 - (vi) Dishonesty;
 - (vii) Insubordination;
 - (viii) Misconduct;
 - (ix) Refusal to work;
 - (x) Sexual harassment;
 - (xi) Theft;
 - (xii) Unsatisfactory work performance;
 - (xiii) Criminal conduct;
 - (xiv) Falsification of application for employment;
 - (xv) Violation of agency rules or policy;
 - (xvi) Violation of State Personnel Rules;
 - (xvii) Violation of the State of Wyoming Substance Abuse Policy;
 - (xviii) Violation of the State of Wyoming Anti-Discrimination Policy;
 - (xix) Violation of the State of Wyoming Electronic Mail Policy;
 - (xx) Violation of the State of Wyoming, Office of the Chief Information Officer, Information Technology Manual, Internetworking Acceptable Use Policy (CIO 1200-P143);
 - (xxi) Violation of the State of Wyoming Code of Ethics; and
 - (xxii) Violation of the Workplace Violence Policy.

(c) At the request of the agency head, the Human Resources Division and the office of the Attorney General shall provide technical assistance in matters pertaining to the administration of employee discipline.

Section 2. Determination of Appropriate Discipline.

(a) Agency management shall attempt to administer discipline to permanent employees in progressive stages to seek corrective results. However, conduct of any type which agency management considers serious, may result in a disciplinary suspension or dismissal without taking prior disciplinary steps.

(b) Progressive stages of discipline may include but are not limited to, letters of expectation, letters of counseling, or verbal or written warnings. However, this is not mandatory and agency management may within his/her sole discretion determine to administer any level of discipline in Section 3 herein as an initial step to a permanent employee.

(c) The agency management's determination of the appropriate action to take shall be based on adequate investigation of the facts and circumstances of the case.

Section 3. Types of Discipline.

(a) Written Reprimand:

(i) A supervisor may formally discipline a subordinate employee for cause by providing a written reprimand to the employee specifying;

(A) Reason(s) for the reprimand;

(B) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(C) Corrective action necessary to avoid further disciplinary action; and

(D) The right to present a grievance pursuant to these rules.

(b) Disciplinary Suspension:

(i) An agency head may suspend, without pay, an employee for cause for up to thirty (30) days in a calendar year. The agency head shall provide the employee with written notification specifying;

(A) Reason(s) for the suspension;

(B) Previous letters of expectation, letters of counseling, verbal or written warnings, unacceptable performance appraisals, discussions, or reprimands, if any;

(C) The effective date and duration of the suspension;

(D) The corrective action necessary to avoid further disciplinary action; and

(E) The right to present a grievance pursuant to these rules.

(ii) A copy of the notice of suspension shall be sent to the Human Resources Division by the agency head.

(c) Dismissal of Permanent Employees:

(i) Dismissal Due to Employee Conduct/Incapacity;

(A) An agency head may dismiss an employee for cause. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying;

(I) The reason(s) and summary of the evidence for dismissal; and

(II) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s);

(B) The agency head shall have ten (10) working days to consider the response;

(C) If the agency head determines dismissal is appropriate, the agency head shall provide, personally or by return receipt requested certified mail, written notification to the employee specifying;

(I) The reason(s) for the dismissal;

(II) The effective date of the dismissal; and

(III) The right to a hearing pursuant to these rules;

(ii) Dismissal Subsequent to a Fitness for Duty Evaluation;

(A) An agency head may dismiss an employee determined to be incapacitated to perform assigned duties subsequent to a fitness for duty evaluation. Prior to the dismissal of a permanent employee, the agency head shall provide to the employee written notification specifying;

(I) The reason(s) and summary of the evidence for dismissal;

(II) Notification that the Fitness for Duty report will not be provided directly to the employee, but may be provided directly to a qualified mental health professional of the employee's choice for interpretation; and

(III) An opportunity for the employee, within ten (10) working days, to respond in writing to the charge(s). If the employee chooses to have a qualified mental health professional interpret the report for them, the time period for response may be extended upon mutual agreement;

(B) The agency head shall have ten (10) working days to consider the response;

(C) If the agency head determines dismissal is appropriate, the agency head shall provide, personally or by return receipt requested certified mail, written notification to the employee specifying;

(I) The reason(s) for the dismissal;

(II) The effective date of the dismissal; and

(III) The right to a hearing pursuant to these rules;

(iii) A copy of the notice of dismissal shall be sent to the Human Resources Division;

(iv) If the agency head perceives that the employee's presence on the job may be detrimental to the operation of the agency, the agency head may place the employee on Administrative Review Leave, with pay, pending the dismissal review period.

Section 4. Compliance with Procedure.

(a) Failure to comply with the procedural steps in this chapter by the agency terminates the disciplinary action without prejudice. Parties shall be restored to the previous status held prior to the disciplinary action.

CHAPTER 8

GRIEVANCES AND APPEALS FOR PERMANENT EMPLOYEES

Section 1. **Statement of Policy.**

Permanent employees shall have the right to present a grievance or appeal, pursuant to the provisions of this chapter, without coercion, restraint, discrimination or reprisal.

Section 2. **General Provisions.**

(a) Time Periods:

(i) In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded from the computation;

(ii) The Human Resources Administrator may, upon written request and for good cause shown, or at his/her own discretion, extend any time period prescribed by this chapter, provided the written request is received before the expiration of the time period originally prescribed.

(b) Compliance with Procedure. An employee shall forfeit the right to pursue a grievance and / or appeal if the employee fails to follow the procedures prescribed by this chapter.

(c) Waiver of Procedure. Any procedure prescribed by this chapter may be waived by mutual written agreement between the parties. A copy of the agreement shall be forwarded to the Human Resources Administrator or the presiding officer, as applicable.

(d) Designation of Parties. The rights in this chapter apply to permanent employees only.

(e) Representation. An employee may be represented by any person, including legal counsel, at any stage of the grievance and / or appeal process.

(f) Administrative Leave. An employee who is a party or witness in a grievance or appeal, and employee Grievance Committee members, shall be granted administrative leave to participate in the proceeding. An employee who has filed a grievance shall be entitled to a maximum of eight (8) hours of administrative leave to prepare for presentation of the grievance and / or appeal. Prior notice shall be given to the employee's supervisor.

(g) Grievance Committee: Membership and Compensation. Grievance Committee members shall be individuals who have consented to serve as such and who are not parties to the dispute, nor employees from the same agency as either party to the dispute, nor advocates of either party to the dispute. Grievance Committee members shall not have any ex parte communication with the parties to the dispute during the grievance process. Non-employee Grievance Committee members shall serve without compensation but shall be reimbursed for expenses in the same manner and at the same rate as employees.

(h) Grievance Committee Decisions. Decisions of a Grievance Committee shall require a majority vote of the body. No hearing shall be conducted without the presence of all Grievance

Committee members, unless stipulated to by the parties. The hearing may be conducted by telephone or other electronic media.

(i) Custody of Records. The Human Resources Administrator shall be the official custodian of all records pertaining to the provisions of this chapter.

(j) Confidential Proceedings. All grievance and appeals proceedings shall be confidential.

(k) Service of Documents. Any person filing a document with the Human Resources Administrator in a grievance and / or appeal proceeding shall serve a copy on all parties and representatives at or before the time the document is filed with the Human Resources Administrator.

(l) Agencies shall provide a report to the Human Resources Division on or before February 28 of each year, in the manner determined by the Human Resources Division, on the number and type of grievances submitted to the Agency Head during the previous year.

Section 3. Definition of Grievance.

(a) "Grievance" means a dispute, between an employee and management of the employee's agency, which involves the interpretation or application of a statute, rule, executive order, or policy concerning personnel practices and/or working conditions.

(b) "Grievance" does not include a dispute, which involves;

(i) Compensation, benefits, contributions, and other conditions, which are beyond the control of the agency head;

(ii) Discrimination;

(iii) Dismissal;

(iv) Involuntary separation due to a reduction in force; or

(v) Performance evaluation ratings.

Section 4. Grievance Procedure Steps.

(a) Within ten (10) days of the event giving rise to the grievance or of the employee having knowledge of the event, the employee may present the grievance in writing to the management employee at the lowest level giving rise to the dispute and the agency head. The grievance shall include a brief statement of fact on which the grievance is based and relief sought.

(b) Within ten (10) days of receiving the written grievance, the agency head or his/her designee and the appropriate management employee at the lowest level giving rise to the dispute shall hold a conference with the employee to resolve the dispute and render a decision, in writing, to the employee within five (5) days after the conference. A decision by the agency head or the designee shall be the final step in the grievance procedure unless the grievance involves a dispute in accordance with Section 4 (d) of this chapter.

(c) In the event the management employee giving rise to the dispute is the agency head and the decision of the agency head is unsatisfactory to the employee and involves allegations concerning

violations of a statute, rule, executive order, or policy, the employee shall submit the grievance in writing to the Human Resources Administrator within ten (10) days of receiving the written decision by the agency head.

(i) The Human Resources Administrator shall within five (5) days of receiving the written grievance, forward the issue to the Governor or his designee for investigation in accordance with Executive Order 1997-4.

(d) If the decision of the agency head or the designee is unsatisfactory to the employee and if the grievance involves a disciplinary suspension, an involuntary reassignment due to unsatisfactory work performance, or an involuntary reassignment to a lower grade, the employee may, within ten (10) days of the date of the decision, request the Human Resources Administrator to establish a Grievance Committee to hear the matter. Other matters may be considered by a Grievance Committee at the discretion of the State Human Resources Administrator. All requests shall be submitted, in writing, and shall include the nomination of an individual to serve as a Grievance Committee member. A copy of the request to establish a Grievance Committee shall be provided to the employee's agency head by the employee.

(e) Within five (5) days of the date of a request for the establishment of a Grievance Committee, the Human Resources Administrator or his/her designee shall notify the head of the agency with which the employee has the dispute; and request the nomination of a Grievance Committee member. The agency head shall notify the State Human Resources Administrator or his/her designee of the nomination within five (5) days.

(f) Within five (5) days of receipt of the agency head nomination, the State Human Resources Administrator shall notify the two (2) nominees that they are to serve as Grievance Committee members, and that they shall within five (5) days of receipt of such notice form the Grievance Committee by selecting a third member from a list of agency human resource officers (or other designated individuals) who have agreed to serve as Grievance Committee members. This list is maintained at the Department of Administration and Information, Human Resources Division, Emerson Building, 2001 Capitol Avenue, Cheyenne, WY 82002 and is available for public inspection and copying at cost at the same location. A chairperson and secretary shall be selected from among Grievance Committee members.

(g) Grievance Committee Purpose and Authority.

(i) The purpose of the Grievance Committee is to resolve a dispute, which falls within Section 4(d) of this chapter;

(ii) The Grievance Committee has the authority to affirm, modify, or reverse any action(s) so long as the decisions and recommendations are not in conflict with Personnel Rules, State Statutes, or agency rules and regulations. Decisions of the Grievance Committee are final unless the grievance is appealable in accordance with Section 5 of this chapter.

(h) Grievance Committee Hearings.

(i) Within twenty-five (25) days of the formation of a Grievance Committee, the Grievance Committee shall schedule and hold a hearing or render a decision without a hearing, based solely on the written record;

(A) The hearing shall be confined to those issues provided by the parties in Chapter 8 Section 4(d) and shall not develop into a general inquiry into the policies and operations of an

agency. The written record shall constitute and is limited to the documentation provided by the parties in Chapter 8 Section 4(a)(b) and (d);

(B) If the issues raised by either or both parties are such that further proceedings are unnecessary, the Grievance Committee shall submit a written decision to the State Human Resources Administrator who shall forward copies to both parties;

(C) If the issues raised by either or both parties are such that further proceedings are necessary, the Grievance Committee shall initiate a hearing. The hearing shall be concluded within five (5) days of initiation, provided, that the hearing may be extended with the agreement of both parties and a majority of the Grievance Committee. The Grievance Committee shall select a location for the hearing, which is most convenient for the parties and their interests.

(ii) General Provisions for a Grievance Hearing:

(A) The chairperson shall take whatever action is necessary to ensure a fair, orderly, and expeditious hearing;

(B) No record shall be made of the hearing;

(C) The hearing shall not be bound by formal rules of evidence;

(I) Decisions to accept or reject evidence, upon objection by another Grievance Committee member, shall require a majority vote of the Grievance Committee;

(II) Only evidence relevant to the grievance shall be allowed and evidence which is repetitive, will be excluded;

(III) The Grievance Committee may issue requests to produce evidence;

(D) Opening statements may be made, first by the employee or the employee's representative followed by the Agency;

(E) The employee shall present their case first, followed by the Agency;

(F) Witnesses who will give pertinent information to the grievance may be called;

(I) Witnesses shall remain available and not discuss the case with anyone, other than the party for whom they are appearing until after they are excused by the Grievance Committee and the consent of both parties;

(II) Witnesses, except for the parties, shall not remain in the hearing room except when called;

(III) Each party will be given the opportunity at the appropriate times, to ask questions of the witnesses;

(G) Any member of the Grievance Committee may direct questions to any party or witness at any time during the proceedings;

(H) Prior to the conclusion of the hearing, each party may present a brief summary or closing statement, first the employee or the employee's representative followed by the Agency;

(I) If a party does not appear at the hearing, the Grievance Committee may base its decision on a consideration of the documents provided and on the presentation of the case by the party present.

(iii) The Grievance Committee may allow a party at its request to examine items, which the other party intends to submit as evidence in the hearing. Such examination shall be completed at least three (3) days prior to the hearing unless the parties stipulate to a different time;

(iv) Within ten (10) days following conclusion of a hearing, the Grievance Committee shall prepare a written summary statement of the evidence and its findings, decision and recommendations;

(A) Any Grievance Committee members voting in the minority may prepare a minority statement, which shall be a part of the material submitted;

(B) The chairperson shall ensure that all evidence, findings, decisions and minority statements and recommendations are forwarded to the Human Resources Administrator, agency head, employee, and the employee's representative, if any.

Section 5. Personnel Appeals.

(a) Right to Hearing.

(i) An employee may appeal the following agency head decisions:

(A) Dismissal;

(B) Involuntary separation due to a reduction in force;

(ii) Either party may appeal, through a de novo hearing, the following final Grievance Committee decisions:

(A) Involuntary reassignment due to unsatisfactory work performance;

(B) Involuntary reassignment to a lower grade; and

(C) Disciplinary suspension.

(b) Request for Hearing:

(i) Any employee may appeal the agency head's decision or either party may appeal a Grievance Committee decision by filing a notice of appeal with the Human Resources Administrator setting forth the following:

(A) The name and address of the employee and the name and address of the employee's representative if any;

(B) The decision of the agency head or Grievance Committee being appealed;

(C) A statement of the facts on which the appeal is based; and

(D) The relief sought.

(ii) Appeals shall be filed, in writing, within twenty (20) days of the date of the agency head or Grievance Committee's decision;

(A) In order to be timely filed, the Human Resources Administrator shall receive the notice of appeal within the twenty (20) day deadline;

(B) After the filing of a petition for a personnel appeal hearing, such petition may not thereafter be amended as may be allowed by the Wyoming Rules of Civil Procedure.

(iii) The appealing party shall serve a copy of the notice of appeal on the other party and the other party's representative, if any, at the time the notice of appeal is filed;

(iv) The Human Resources Administrator shall immediately forward a file stamped copy of the notice of appeal to the other party and the other party's representative, if any.

(c) Response and Motions Challenging Timeliness or Jurisdiction:

(i) The responding party shall file a response and any motions challenging the timeliness or jurisdiction of the appeal within twenty (20) days of the filing date of the notice of appeal;

(ii) The response and any motions shall be in writing and filed with the Human Resources Administrator;

(iii) The response shall include a statement of the facts on which the appeal is based;

(iv) The responding party shall serve a copy of the response and any motions on the other party and the other party's representative, if any, at the time of filing.

(d) Response to Motion. Any response to a motion filed with the Human Resources Administrator shall be filed within ten (10) days after the motion is filed, and the party filing the response to a motion shall serve a copy of the response on the other party and the other party's representative, if any, at the time of filing.

(e) Human Resources Administrator's Jurisdiction:

(i) The Human Resources Administrator shall have jurisdiction to determine whether the employee has made a claim upon which relief can be granted, and the timeliness of the appeal;

(ii) The Human Resources Administrator may issue orders, prior to referring the appeal to the presiding officer, on any matter within his or her jurisdiction upon motion of a party or the Human Resources Administrator's own motions.

(f) Presiding Officer:

(i) The agency shall submit the name of a presiding officer mutually agreed upon by the parties to the Human Resources Administrator within five (5) days of the date of the notice of appeal;

(ii) If the parties fail to submit notification of a mutually agreed upon presiding officer within the time allowed, the Human Resources Administrator shall immediately refer the matter to the Office of Administrative Hearings;

(iii) The Human Resources Administrator shall transfer to the presiding officer the current record of the proceedings in the case.

Section 6. General Procedures for Personnel Appeal Hearings.

(a) Unless the parties stipulate in writing to an extension of the time period provided, the Presiding Officer shall render and file with the Human Resources Administrator a written decision and order containing Findings of Fact and Conclusions of Law, and shall provide written certified notice of the decision to all parties to the appeal within thirty (30) days of the close of evidence.

(b) Incorporation by Reference:

(i) The Office of Administrative Hearing Rules, Chapter 2, Contested Case Proceedings, edition October 17, 2014 is incorporated by reference:

(ii) The incorporated rule does not include any later amendments or editions;

(iii) The incorporated rule is maintained at the Department of Administration and Information, Human Resources division, Emerson Building, 2001 Capitol Avenue, Cheyenne, WY 82002 and is available for public inspection and copying at cost at the same location.

Section 7. Consolidation of Multiple Actions. If an employee has multiple, separate, or pending grievances or appeals involving the same employee and agency, those grievances or appeals may be consolidated into one proceeding upon mutual, written agreement, if the facts and nature of the actions so allow.

CHAPTER 9

PERFORMANCE MANAGEMENT

Section 1. **Performance Management Program.**

(a) The performance management program provides agencies and employees with opportunities for performance planning, coaching, and evaluation. The program provides for the establishment of job expectations, the measurement of job performance, the identification of employee development and taking corrective action as necessary.

(b) The Human Resources Division shall be responsible for administering the performance management program to include:

(i) The development and interpretation of rules, policies and procedures specific to performance management;

(ii) The development and implementation of components of the program as necessary (such as forms, on-line evaluation system and training);

(iii) The monitoring of agency compliance; and

(iv) Reporting to state agencies, the Governor and the Legislature as necessary.

Section 2. **Applicability.**

(a) All employees shall be evaluated as provided in this chapter with the exception of:

(i) Elected State Officials;

(ii) At-Will Agency Heads;

(iii) Contractual Employees;

(iv) Emergency Employees;

(v) Temporary Employees;

(vi) Interns;

(vii) Seasonal Employees;

(viii) Time limited Employees;

(ix) Intermittent Employees; and

(x) Other positions as approved by the Human Resources Administrator.

Section 3. **Responsibility of Agency Heads.**

Agency Heads shall be responsible for performance management within their agencies in accordance with the established State of Wyoming Personnel Rules and policies. Agency Heads shall ensure that employees are evaluated using job-related performance criteria.

Section 4. **Probation and At-Will Status.**

(a) Conducting performance phase's evaluations on probationary employees will in no way alter or change their probationary status during their probationary period.

(b) Conducting performance evaluations on at-will status employees will in no way alter or change their at-will status.

Section 5. Performance Management Evaluation Period.

(a) The performance evaluation period for all employees shall be from October 1st through September 30th, except as follows:

(i) Employees with a hire date on or before June 30th shall have a performance evaluation conducted by the end of September following hiring;

(ii) Employees with a hire date on or after July 1st through September 30th, shall have a performance evaluation conducted by the end of the second September following hiring;

(iii) Upon the completion of the first evaluation, thereafter, the evaluation period shall revert to October 1st through September 30th.

Section 6. Evaluation Date.

(a) All employees' performance evaluations shall be completed by September 30th.

Section 7. Evaluator Responsibilities.

(a) Except as provided for in subsection 10 (e) or as otherwise authorized by the Human Resources Administrator, the evaluator shall be the immediate supervisor of the employee. An evaluator shall have at least ninety (90) days of direct supervision of the employee prior to conducting an evaluation:

(i) If an evaluator changes positions after July 1st, the evaluator shall complete all evaluations on employees they have supervised for at least 90 days prior to the change of position;

(ii) If the evaluator is not available or the position is vacant, the second level evaluator shall complete evaluations for direct reports.

(b) The evaluator shall have received training on the performance management program as prescribed by the Human Resources Division. Evaluators shall be trained on the performance evaluation program prior to evaluating the performance of any employee. Evaluators shall be required to attend continuing performance evaluation education programs as deemed necessary by the Human Resources Division:

(i) When there is no qualified evaluator for an employee, the Agency Head shall determine the appropriate evaluator for that employee with approval of the Human Resources Division prior to conducting performance evaluations.

(c) The evaluator shall use the forms developed by the Human Resources Division to conduct and complete the planning, coaching and evaluation for each employee when applicable.

(d) The evaluator shall be responsible to provide written comments regarding the performance evaluation.

(e) The evaluator shall complete all procedural requirements established under the performance management program including but not limited to the phases or evaluation on the appropriate forms within the prescribed time periods.

(f) Failure to complete each applicable phase for direct reports shall result in “unsatisfactory” rating in the supervisor sections for the evaluator and may result in disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

Section 8. Employee Responsibility.

(a) The employee shall complete the procedural requirements established under the performance management program including:

(i) Acknowledging receipt of the evaluation. Signing the evaluation demonstrates the employee has participated in a performance evaluation meeting. It does not demonstrate agreement or disagreement with the evaluation;

(ii) If left unsigned or employee does not sign the evaluation it will be deemed incomplete.

Section 9. Agency Human Resource Contact or Designee Responsibility.

(a) Agency Human Resource Contact or Designee approved by the Human Resources Division shall ensure that employees are evaluated using job-related performance criteria and substantiated by evaluator documentation. The Agency Human Resource Contact shall complete the procedural requirements established under the performance management program including:

(i) Assign each employee to an evaluator and substitute a second level supervisor when necessary, to ensure each employee is evaluated;

(ii) Agency Human Resource contact shall notify supervisors of required training and enroll supervisors in performance management training required prior to assessing evaluations for an employee;

(iii) Agency Human Resource contact shall report on supervisor’s completion and the applicable deadlines to the Agency Head;

(iv) Retain as confidential according to the Wyoming Public Records Act (W.S. 16-4-201) and the State of Wyoming Personnel Records Policy.

Section 10. Performance Improvement Plan For Permanent Employees.

(a) Performance Improvement Plan is a written document used to guide an employee in achieving a rating above “unsatisfactory” on the annual performance evaluation.

(b) If the permanent employee's overall performance is rated as "unsatisfactory", the evaluator shall discuss and document the performance deficiencies requiring improvement and immediately but no later than fifteen (15) days of the evaluation and provide the permanent employee with a written Performance Improvement Plan which shall be considered a written letter of expectation in accordance with Chapter 7 of the State of Wyoming Personnel Rules:

(i) The duration of the first Performance Improvement Plan shall be forty-five (45) days. At the conclusion of the first Performance Improvement Plan, the evaluator shall review the permanent employee's deficiencies listed in the Performance Improvement Plan and if those deficiencies still remain, may begin or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules;

(ii) A second Performance Improvement Plan shall be developed and shall not exceed forty-five (45) days in duration and may be closed at any time prior to the expiration of the forty-five (45) days if other action is taken unless a change of evaluator has occurred in accordance with subsection (e) of this section;

(iii) At the conclusion of the second Performance Improvement Plan, the evaluator shall review the permanent employees deficiencies listed in the second Performance Improvement Plan and if those deficiencies still remain, shall begin, or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

(c) No permanent employee shall be provided more than two (2) consecutive Performance Improvement Plans within a year of the overall initial "unsatisfactory" rating:

(i) Any changes in the permanent employee's position necessitating changes in the Performance Improvement Plan that occur during the Performance Improvement Plan shall be discussed between the evaluator and the permanent employee and documented on the Performance Improvement Plan.

(d) A Performance Improvement Plan shall include:

(i) A description of the impact of behaviors or performance deficiencies on others, and if applicable, a statement of any policies, procedures, or rule violations and how to address the problem;

(ii) A description of the permanent employee's performance in areas that are rated as "unsatisfactory";

(iii) A description of the expectations for improvement in areas that are rated as "unsatisfactory";

(iv) An explanation of the consequences if the permanent employee's performance does not improve; and

(v) Offering the permanent employee any appropriate assistance in achieving satisfactory job performance.

(e) Change of Evaluator. If a permanent employee currently on a Performance Improvement Plan has a change of evaluator, the new evaluator shall immediately review the Performance Improvement Plan with the second level evaluator's assistance and the permanent employee. Upon the completion of a minimum of forty-five (45) days of direct supervision, the new evaluator shall review the permanent employee's performance on the Performance Improvement Plan in accordance with this Section .

Section 11. **Time Periods.**

(a) In computing any period of time prescribed or allowed by this chapter, the day of the act, event or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday or legal holiday.

Section 12. **Performance Appeal For Permanent Employees.**

(a) Any disputes involving the evaluation ratings given through the performance management program shall not be subject to the grievance procedures pursuant to Chapter 8 of the State of Wyoming Personnel Rules. Any disputes involving procedural compliance shall be subject to the Grievances and Appeals for Permanent Employees Chapter of the State of Wyoming Personnel Rules.

(b) Performance Appeal. A permanent employee receiving an overall rating of "unsatisfactory" shall have ten (10) days from receipt of the performance evaluation rating to submit an appeal to the permanent employee's performance evaluator. The appeal shall contain a brief and specific statement of the permanent employee's contentions as to why the rating is inaccurate and relief sought:

(i) The appeal shall include the specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /

or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(c) Response to Appeal. Within ten (10) days of receipt of the permanent employee's appeal, the performance evaluator shall review the information provided by the employee, review the evaluation, and provide a written response to the permanent employee that includes a brief and specific statement from the performance evaluator responding to the specific contentions of the permanent employee:

(i) Based on the review the evaluator may revise or maintain the employee's rating(s).

(d) Appeal to Agency Head. Within ten (10) days of the evaluator's response to the employee's appeal and if the permanent employee's overall performance evaluation rating remains as "unsatisfactory," the employee shall have ten (10) days to submit in writing an appeal to the Agency Head:

(i) In the case where the permanent employee's evaluator is the Agency Head, the employee shall have ten (10) days to submit in writing an appeal directly to the Human Resource Administrator;

(ii) If the evaluator does not respond to the employee's appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the evaluator to submit in writing a request for review to the Agency Head;

(iii) The permanent employee shall include in the appeal a brief and specific statement of the permanent employee's contentions and relief sought. The appeal to the Agency Head shall be directed specifically to the performance evaluator's evaluation and any response. The appeal to the Agency Head shall include specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation;
and/or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(e) Response to Appeal to Agency Head. If the employee has filed a timely appeal, the Agency Head shall respond to the appeal within ten (10) days of receipt of the appeal:

(i) The Agency Head may delegate this authority in accordance with Chapter 1, Section 4(b)(ii), of the State of Wyoming Personnel Rules;

(ii) Before making a determination regarding the appeal, the Agency Head or designee, shall review the evaluation and the evaluator's response, if any and all documentation submitted by the performance evaluator and the employee;

The Agency Head or designee shall make a determination as to whether; (i)

(A) The overall "unsatisfactory" rating lacks supporting documentation;
and/or

(B) The evaluator disregarded factors or circumstances, which substantially support the permanent employee's position and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria;

(iii) The determination shall be in writing and may direct the evaluator to make any appropriate adjustment(s) to the employee's evaluation.

(f) Appeal to the Human Resources Administrator. Within ten (10) days of receipt of the Agency Head or designee's response to the employee's appeal, the employee may appeal, in writing, the Agency Head or designee's response to the Human Resource Administrator:

(i) If the Agency Head does not respond to the employee's appeal within ten (10) days of the appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the Agency Head to appeal, in writing, to the Human Resources Administrator;

(ii) The Human Resources Administrator shall have fifteen (15) days after receipt of all documents and necessary information to make a determination on the employee's appeal. The Human Resources Administrator shall review the evaluation, the evaluator's response, if any, and all documentation submitted by the performance evaluator, the employee and the Agency Head or designee;

(iii) If the Human Resources Administrator determines that the Agency Head or designee's response was contrary to the State Personnel Rules, state or agency policies, or law, or finds;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /
or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria, the Human Resources Administrator shall require the Agency Head to correct the evaluation;

(iv) Should the Human Resources Administrator determine that there is a conflict of interest a designee shall be appointed by the Governor to review the appeal.

(g) Compliance with Procedure. If an employee does not comply with the deadlines in this section, the employee shall forfeit rights granted by this section for further appeal.

CHAPTER 10

SERVICE AND RECOGNITION AWARDS

Section 1. **Non-Cash Service and Awards.**

(a) Service Awards. Employees are eligible for a service award pin and certification upon completion of each five (5) year period, sixty (60) months, of total service with the State. The total service credits may include employment with one (1) or more executive branch departments and the judicial and legislative branches.

(b) Service credits will be granted for non-continuous service to a rehired employee claiming prior State service in any branch followed by a separation. Service credits shall be given for any calendar month during which work was actually performed. As soon as the employee has completed sixty (60) months of total service, that employee is eligible for a service award pin and certificate. There is no twenty-four (24) month completion requirement necessary due to broken service before a service award pin and certification may be presented.

(c) The Human Resources Division will issue the service awards pins and certificates each month.

(d) Service award pins and certificates are awarded in five (5) year increments, beginning with five (5) years and ending with forty (40) years.

(e) Service award pins and certificates are not considered additional compensation to an employee.

Section 3. **Recognition Awards.**

(a) Recognition awards may be ordered by agencies at their discretion:

(i) The following level of review and approval shall be followed prior to the purchase of any recognition award;

(A) Justification for awards that exceed ten (10.00) dollars per person that are to be purchased with agency funds shall be submitted to the Agency Head for prior written approval;

(B) Justification for awards that exceed fifty (50.00) dollars per person shall be submitted to the Department of Administration and Information Human Resource Division for prior written approval;

(ii) Expenditures for approved awards shall come from the Agency's existing budget;

(iii) Written approval for individual awards that cost more than ten (10.00) dollars shall be attached to related invoices and submitted to State Auditor's Office for payment.

(b) Acceptable Recognition Awards. Awards of work related items are acceptable recognition awards and include pins, plaques, pens, or pencils, portfolios with agency name and or logo, desktop items with the agency name and or logo, including mugs.

(c) Unacceptable Recognition Awards. Awards of a personal type are unacceptable recognition awards, which include but are not limited to:

(i) Flowers;

- (ii) Tickets to concerts, athletic events, sports equipment, etc.;
- (iii) Clothing and or items of personal nature;
- (iv) Art and / or collectibles; and
- (v) Entertainment, meals, and / or food.

CHAPTER 11

SEPARATION

Section 1. **Resignation.**

(a) Notification. An employee intending to voluntarily separate from State service shall submit written notification to the immediate supervisor specifying the effective time and date of the intended resignation. Notification shall be provided as far in advance as possible but not less than fourteen (14) days prior to the date of the intended resignation:

(i) Retirement. Employees separating from State service due to retirement shall follow procedures established by the Wyoming Retirement System.

(b) Effective Date. A resignation shall be effective on the date specified in the employee's notification, or on the effective date provided to the Human Resources Division by the agency head if the employee failed to provide any notice.

(c) Rescinding Notification. An employee who has provided a resignation notice and who wishes to change the effective date or rescind the notification may be allowed to do so with the approval of the agency head.

(d) Failure to Notify. An employee who fails to provide advance notification without valid reason(s) shall not be considered to have separated in good standing. Such failure to notify shall be documented and forwarded to the Human Resource Division as part of the employee's permanent record.

Section 2. **Dismissal of Non-Permanent Employees.**

(a) Definition. A non-permanent employee is an at-will employee who has no expectations of continued employment and may be dismissed at any time without cause or reason:

(i) Non-permanent employees include the employment status of probationary, at-will, at-will contract, temporary, emergency, intermittent, and intern.

(b) An agency head shall dismiss a non-permanent employee upon the expiration of the applicable time limit, or when the services of the employee are no longer required.

Section 3. **Dismissal of Permanent Employees.**

Permanent employee dismissed by the agency head shall be separated pursuant to the provisions of Chapter 7, Section 3(c) pertaining to dismissal of permanent employees.

Section 4. **Reduction in Force.**

(a) A reduction in force shall not be used as a disciplinary action.

(b) Each Agency shall designate divisions for purposes of a reduction in force:

(i) Designations are effective after approval of the Governor;

(ii) Approved designations shall be filed with the Human Resource Administrator and be provided to all agency employees;

(iii) An agency shall not change division designations within sixty (60) days of a reduction in force;

(iv) Prior to the actual reduction in force, employees in the affected positions shall be given a transfer or reappointment within the agency to available vacant positions;

(A) Permanent employee shall also be offered positions held by non-permanent employees within their designated division only. A reduction in one division shall not displace an employee in another division;

(B) Employees transferred or reappointed must meet the minimum requirements for the new position and shall be responsible for any cost of relocation.

(c) Identification of affected position(s) and order of separation:

(i) If a reduction in force is needed, the agency head shall;

(A) Determine from within the Agency the affected designated reduction in force division;

(B) Determine the affected job classification;

(C) Determine the affected geographical area; and

(D) Identify the affected employee(s) having the least amount of continuous Executive Branch service from the most recent date of hire;

(I) Employees with non-permanent status shall be identified for reduction in force prior to employees with permanent status;

(II) If two (2) or more employees within the same job classification have the same amount of continuous Executive Branch service, the agency head shall determine in its discretion which employee is to be separated.

(d) Responsibilities of the Agency Head:

(i) The agency head shall provide at least thirty (30) days notification of the separation date in writing to the affected employee and the Human Resources Division;

(ii) An agency head shall automatically consider a permanent employee, who has been separated due to a reduction in force, in the candidate group for the class held at the time of separation for a period of twenty-four (24) months;

(A) Prior to the employment of any other candidate with no greater preference, a permanent employee separated by a reduction in force shall be offered reinstatement to a vacant position within the agency, within the division (as designated for purpose of reduction in force) last employed and within the class held at the time of separation;

(B) Reinstatement shall be made in reverse order of separation (last separated, first hired).

APPENDIX A

DEFINITIONS

The following definitions are an integral part of the State of Wyoming Personnel Rules and whenever used in these rules, policy, interpretation, memorandum, correspondence or any personnel related matter these terms shall be understood to have the following meanings:

1. Administrative Review. Removal from State premises of an employee who has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency.
2. Agency. A department, board, commission or council of the Executive Branch of government; an agency may be governed by a board, commission, council, or may be directly accountable to the Governor.
3. Agency Head. The director of a State agency; the director may be responsible to a governing board, commission, council, or directly to the Governor.
4. Agency Management. An agency head, supervisor or other employee having the authority to exercise management rights, develop management policies or to effectively make such recommendations requiring the use of independent judgment not of a routine nature.
5. Applicant. A person who has submitted a State application to the Human Resources Division according to prescribed instructions and procedures.
6. Applicant Pool. A list of candidates who have passed the required minimum qualifications and have otherwise been determined to be eligible for appointment to specific classes.
7. Appointing Authority. An agency head, a person having constitutional or statutory authority to appoint candidates to positions or a specified management employee having lawfully delegated authority to appoint candidates to positions in the agency.
8. Appointment. The final selection of a candidate by an appointing authority subject to the approval of the Human Resources Division.
9. At-Will Appointment. An appointment of an individual to a position which is either statutorily required or approved by the Human Resource Division to serve at the pleasure of the Governor or Agency Head.
10. At-Will Employee. An employee whom has no expectation of continued employment and may be dismissed at any time without cause or reason.
11. At-Will Contract Employee. An individual hired by the State of Wyoming to provide technical or professional services through a contract which clearly states the duties, responsibilities, and benefits for a specific period of time. The terms and conditions of employment are defined in the contract.
12. Behavioral Competency. Behaviors obtained through formal or non-formal education, work experience, or other means. They are described in observable and measurable terms that are necessary in order to perform a particular type or level of work activity. They are behavioral characteristics, defining

qualities each employee needs not only to be successful at their job, but to excel in carrying out the mission of the State.

13. Bonus Payments. Money or an equivalent given as an addition to an employee's usual compensation as a non-base pay adjustment.

14. Break in Service. See Separation.

15. Call-Back Pay. A non-base pay adjustment given to a non-exempt employee who is called back to work during other than normally scheduled work hours.

16. Candidate. A person who may be given selection consideration for appointment.

17. Candidate Group. Those applicants who may be given selection consideration for appointment from the applicant pool.

18. Class or Classification. A set of similar positions classified to the same grouping and designated by a class title and class code. Class and Classification are interchangeable terms under these rules.

19. Compensation Adjustment. A change in the base pay for an employee who remains in the same position number and the same classification.

20. Compensatory Time, Non-Exempt. Time which may be taken with pay for overtime worked by a non-exempt employee.

21. Compressed Work Week. A compressed workweek is a forty (40) hour work week completed in fewer than five days by increasing the number of hours worked per day.

22. Core Functions. Core functions of a job are the reason the job exists.

23. Day. A calendar day, unless otherwise specified.

24. Disciplinary Suspension. Suspension from State service of an employee, without pay, for cause for up to thirty (30) days in a calendar year.

25. Dismissal. Involuntary separation from State service.

26. Educational Compensation. Compensation of up to 100% of an employee's base pay during the time when educational leave is granted.

27. Eligible Applicant. Applicants who have passed all appropriate examinations, have been approved by the Human Resources Division as meeting minimum qualifications and from whom selection consideration for appointment to a specific recruitment has been determined.

28. Emergency Appointment. An appointment made in response to an emergency, threatening public health, safety or welfare.

29. Emergency Employee. An at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

30. Employee. A person working in and compensated by the Executive Branch of State Government, over which management has the right to direct and control the way the person works, both as to the final results and as to the details of when, where and how the work is done.
31. Employee Status. A designation based on the most recent of the following types of appointments: probationary, permanent, temporary, emergency, intermittent, at-will, or intern.
32. End of Service Leave. Use of accrued unused vacation leave when terminating from state service for any reason except disciplinary action in lieu of receiving a lump sum payment for accrued unused vacation leave.
33. Ex-parte Communication. Communication with one side or one party of a grievance without the other party present.
34. Exempt Paid Time Off. Time which may be taken by an exempt employee as authorized leave with pay for having worked on an official state holiday.
35. Equivalent Service. The amount of Executive Branch service, calculated on the basis of the number of months actually worked or on authorized leave (except leave without pay, educational leave or disciplinary suspension).
36. Evaluation period. The length or portion of time established under a performance management system for reviewing employee performance.
37. Examination or Exam. Any process, procedure, rating, interview, test, evaluation or assessment, whether scored or not scored, formal or informal, which affects a person's eligibility for, or consideration for, appointment.
38. Executive Employee. An individual appointed by the Governor or a state board or commission to serve as a cabinet director or separate operating agency director. This does not include the executive secretary or director, board administrator or head of a board or commission.
39. Exempt Employee. An employee who is not required to receive overtime in accordance with the Fair Labor Standards Act.
40. Factors. Elements used to determine a job's value to the Executive Branch of State Government.
41. Flextime. Flextime allows the employee, with the agency head's approval, to choose an arrival and departure time within a specified time period as their regular work schedule.
42. Focal Date. A date in which employees are evaluated annually (i.e., September 30th).
43. Full-Time Position. An authorized position funded for a salary expenditure of at least forty (40) hours of work per week.
44. Furlough. Unpaid leave approved by the Governor.
45. Geographical Area. An area surrounding a work location which includes those places within a distance from which an employee would reasonably be expected to be willing to commute to work. For purposes of these rules such distance will normally be considered to be fifty (50) miles from the work location.

46. Goals. Specific, measurable, attainable, relevant, and time based acts or processes, based on the primary areas of responsibility that are a regular part of the job or based on a particular assignment or special project, that reflects and establishes what shall be accomplished during the performance evaluation period.
47. Grievance. Any dispute, excluding discrimination, dismissal, involuntary separation due to a reduction in force or performance evaluation rating, between a permanent employee and management of the employee's agency which involves the interpretation or application of a statute, rule, executive order, or policy concerning personnel practices and/or working conditions.
48. Holiday Premium, Exempt. Exempt employees who are required to work on the holiday shall be granted paid time off at the rate of one and one-half hours off for each hour worked.
49. Holiday Premium, Non-exempt. Non-exempt employees who are required to work on the holiday shall be granted either holiday premium pay or compensatory time at one and one-half times their compensation rate for all hours worked.
50. Hours of Work. Generally, hours worked includes all time the employee is required to be on duty or on the agency's premises or at a prescribed work place and all time that employee is suffered or permitted to work for the State.
51. Human Resources Division. The Human Resources Division (HRD) of the Department of Administration and Information established pursuant to W.S. 9-2-1019 through 9-2-1022.
52. Immediate Family. A person who is related to an employee and is a spouse, parent, stepparent, parent-in-law, child, stepchild, child-in-law, sibling, half-sibling, step-sibling, sibling-in-law, grandparent, step-grandparent, grandparent-in-law, and grandchild.
53. Interim Assignment. The assignment of an employee to a different position for a period not to exceed twelve (12) months.
54. Involuntary Reassignment. An unsought appointment of a permanent or probationary employee, by the employee's agency head or designee, due to a reduction in force or unsatisfactory work performance, or other demonstrated reason affecting the accomplishment of program goals. Such appointments will be made to a different position in a different classification having the same or lower grade than the employee's current classification.
55. Job-Shared Position. See Time-Shared Position.
56. Layoff. See Reduction in Force.
57. Leave. An authorized absence from work during normally scheduled working hours.
58. Management Employee. See Agency Management.
59. Memo of Understanding. The Memorandum of Understanding between the agency and the employee is a legally binding document that establishes a clear understanding of the role and responsibilities between the agency, the supervisor, and the teleworking employee.

60. Minimum Qualifications. Standards which designate the typical types and minimum levels of training and/or experience through which one would be expected to acquire the knowledge, skills, abilities and other requirements necessary for performance upon entry to a class.
61. Non-exempt Employee. An employee who is required to receive overtime in accordance with the Fair Labor Standards Act.
62. Non-permanent Employee. Any employee other than a permanent employee who is an at-will employee who has not expectation of continued employment and may be dismissed at any time without cause or reason.
63. Official State Workweek. The official state workweek begins at 12:01 A.M. Saturday, continues for seven (7) consecutive days (168 hours) and ends at 12:00 midnight on Friday.
64. On-Call Pay. A non-base pay adjustment for non-exempt employees who are required to remain on the agency's premises or so close that the time cannot be used effectively for that employee's own purposes.
65. Overall Score. The calculated rating for all performance components.
66. Overtime. Time worked by a non-exempt employee in excess of the workweek standard or the work period standard.
67. Part-Time Position. An authorized position funded for a salary expenditure of less than forty (40) hours of work per week.
68. Pay Range. The range of pay rates, from minimum to maximum, set for a class. Used as a policy for setting individual employee pay or salary rates.
69. Pay Rate. A set dollar amount between the minimum and maximum of a pay range.
70. Pay Table(s). A schedule of pay ranges for each class in the classification system.
71. Performance Evaluation. The process and the determination through observation and careful study of the employee's overall behavior and goal outcomes to meet the target and objectives of the agency and the State.
72. Performance Improvement Plan. A written document used to guide an employee toward achieving a rating above "unsatisfactory" on the annual performance evaluation.
73. Performance Management. An ongoing, continuous process of communicating and clarifying job responsibilities, priorities and performance expectations in order to ensure mutual understanding between supervisor and employee. It emphasizes communication and focuses on adding value to the organization by promoting improved job performance and encouraging skill development. It involves clarifying the job duties, defining performance standards, and documenting, evaluating and discussing performance with each employee.
74. Permanent Appointment. The appointment of an employee to permanent status upon completion of the probationary period.

75. **Position.** A job for which funding has been authorized by the Governor or the Legislature, consisting of a set of assigned tasks with defined boundaries of responsibility and authority.
76. **Position Class.** See Class or Classification.
77. **Probationary Appointment.** An appointment of a candidate in a civil service position who shall serve a three hundred sixty-five (365) day probationary period.
78. **Probationary employee.** Is an at-will employee who has no expectation of continued employment and may be dismissed at any time during the probationary period without cause or reason.
79. **Probationary Period.** An examination period of three hundred sixty-five (365) days) utilized for closely observing an employee's work, for securing the most effective adjustment of the employee to the position and for dismissing any employee without right of appeal.
80. **Promotion.** An appointment of an employee having permanent or probationary status, through a competitive recruitment process, to a different position number with a different classification having a higher grade.
81. **Qualified applicant.** See Eligible Applicant.
82. **Rating.** Summarizes performance by evaluating against components in an employee performance plan then compares performance over a period of time with absolute measurement scales that indicate varying levels of performance.
83. **Rating Scale.** Describes the varying levels of proficiency of performance into which each competency and goal can be divided. It is used to assign a performance rating for each performance component on the performance evaluation.
84. **Reappointment.** See Involuntary Reappointment and Voluntary Reappointment.
85. **Reclassification.** The assignment of a position to a different classification.
86. **Recruitment.** A process to attract suitable numbers of qualified applicants to compete for appointments.
87. **Reduction in Force.** A reduction in force is an involuntary termination of an employee from State employment because of a shortfall of funding, lack of work, organizational changes requiring a reduction in the number of positions in state employment.
88. **Re-employment.** An employee re-employed to the same classification within four (4) months after separation provided they meet the specific minimum qualifications.
89. **Reinstatement.** The re-employment to any class of a previous permanent employee within twenty-four (24) months of a separation due to a reduction in force.
90. **Relative(s).** A person connected with another by blood or marriage.
91. **Resignation.** Voluntary separation from state service.

92. Selection Examination or Consideration. An interview, background evaluation or other examination of candidates used in making an appointment decision.

93. Separation. A break in service resulting from a resignation, termination, retirement, dismissal or reduction in force. A twenty four (24) hour break in service not including normal days off.

94. Serious Health Condition. Is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical facility; or continuing treatment by a health care provider.

95. Service Credits.

(a) The number of calendar months during which work was actually performed in the Executive, Judicial or Legislative Branch which has not been interrupted by a separation. If a previous permanent employee is reinstated to State service within twenty-four (24) months of a reduction in force, then such separation shall not constitute a break in continuous service; however, the time period during the separation does not count as months worked. If an employee receives another appointment effective on the next work day following the effective date of a separation, then such separation shall not constitute a break in continuous service.

(b) Credit shall not be given for a calendar month in which an employee was on leave without pay, educational leave, or disciplinary suspension when no work was actually performed. Time during which an employee was absent from work because of a valid workers' compensation claim or Family and Medical Leave, while not considered as time worked, shall be included in calculating the total number of months of continuous service. Time during which an employee was on any other authorized leave shall be considered time worked for purposes of this definition.

96. Shift Differential. A premium paid to those employees whose regularly assigned hours of work are outside 6 am to 6 pm Monday through Friday.

97. Specific Minimum Qualifications. Specific minimum qualifications are separate distinctive minimum qualifications established within a classification.

98. Intern Appointment. A time-limited appointment made of an individual where such employment constitutes a recognized phase of the individual's educational or training program.

99. Supervisor. An employee having statutory or properly delegated authority to appoint, suspend, transfer, promote, dismiss, lay off, demote, assign work, reward, direct, resolve grievances of or discipline other employees; or to effectively recommend such actions if the exercise of such authority requires the use of independent judgment and is not routine in nature.

100. Supplementary Compensation. A non-base pay adjustment given to employees in accordance with the State Compensation Policy.

101. Suspension. See Disciplinary Suspension.

102. Telework. Telework allows state employees to conduct state business from an approved remote work site other than their regular office.

103. Temporary Appointment. An appointment of a candidate to a position in a class for a limited period of time.

104. Temporary Employee. An at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.
105. Termination. A separation of an employee in good standing.
106. Test. See Examination.
107. Time-Limited Appointment. An emergency, intermittent, temporary, or intern appointment made for defined duration.
108. Time-Limited Position. An authorized position funded for a limited time period.
109. Time-Shared Position. Two (2) employees who voluntarily occupy one (1) position or three (3) employees who voluntarily occupy two (2) positions with the agency head's approval, providing that the total salary expenditures for those employees do not exceed the amount authorized for the position or positions (W.S. 9-2-1022 (f)).
110. Training Expenses. Reimbursement of expenses to employees by the state for job-related training.
111. Transfer. The appointment of an employee from one agency to another agency within the same classification.
112. Voluntary Reassignment. A reassignment of an employee voluntarily seeking an appointment to a different position in a different class having the same or lower grade than the employee's current class.